IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 4502 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GIRISHBHAI SURYAKANTBHAI ASAR
Versus
EXECUTIVE ENGINEER PUBLIC HEALTH WORKS DIVISION

Appearance:
MR MUKESH H RATHOD for the Petitioner.
MR RC JANI for Respondent No. 1
..... for Respondent No. 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 22/07/2002

ORAL JUDGEMENT

Rule. Mr.R.C. Jani waives service of rule on behalf of the respondents.

With the consent of the parties, the matter is taken up for final hearing today.

Being aggrieved by the Award passed by the Presiding Officer, Labour Court, Junagadh, in Reference No.62 of 1992,the present petitioner has approached this

Court by way of this petition. Before the Labour Court, Junagadh, various References were filed on behalf of the individual workman and they were numbered as Reference Nos. 57, 58, 60, 61, 62, 64, 65, 66 and 67 of 1992. By the impugned Award, the following references, viz., Reference Nos. 57, 58, 60, 64, 65 and 66 of 1992, were partly allowed by the Labour Court. The Labour Court set aside the order of termination dated 16.8.1991 and the concerned workmen were reinstated with 50% back wages. So far as the present petition is concerned, his reference was rejected by the learned Judge on the ground that the petitioner has not led appropriate evidence before the Court.

In response to the notice of this Court, Mr.R.C. Jani, learned Advocate, appears for the respondent-authority. Since similar benefits have been given to other workmen, Mr.Jani for the respondents, after taking instructions, states before the Court that the Department has no objection in case similar treatment is given to the present petitioner as has been given to other employees by the impugned Award by the Labour Court. He, however, submitted that so far as the aforesaid Award is concerned, the respondents have also filed Special Civil Application No.3231 of 2001 to 3236 of 2001 on the ground of giving 50% back wages as well as giving continuity of service. He submitted that, therefore, the respondents have no objection in reinstating the present petitioner. However, since the issue about continuity of service and payment of back wages is sub judice in the aforesaid Special Civil Applications, at present, the respondents are not agreeable to give the benefits to the petitioner except reinstating him in service on his original post. Mr.Upadhyay for the petitioner has no objection if similar benefit, which is given to other workmen, is granted to the present petitioner by setting aside the removal order. Under the circumstances, and with the consent of the parties, the following order is passed.

The order of the respondents in terminating the services of the present petitioner dated 16.8.1991 is quashed and set aside. The respondents are directed to reinstate the petitioner on his original post. However, he will not be entitled to any back wages for the intervening period. It is, however, clarified that in case, ultimately, the writ petition filed by the respondents is rejected by the Court so far as the continuity of service is concerned, the respondents are directed to give the same benefit to the present petitioner except giving any back wages for the

intervening period. This petition is accordingly allowed to the aforesaid extent. Rule is made absolute with no order as to costs.

22nd July, 2002 (P.B. Majmudar, J.)

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(apj)